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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,739	09/26/2003	Bradley P. Lane	LANEB.65288	9450

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EXAMINER

HENDERSON, MARK T

ART UNIT PAPER NUMBER

3722

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,739

Applicant(s)

LANE, BRADLEY P.

Examiner

Mark T Henderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-15,17,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-15,35 and 36 is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Faxing of Responses to Office Actions

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9306. This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claims 1, 16 and 18-34 have been canceled. Claims 2, 5, 10, and 11 have been amended for further examination.

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Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 17 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18 and 21, 31 and 32 of copending Application No. 09/982,365. Although the conflicting claims are not identical, they are not patentably distinct from each other because both disclose a display apparatus comprising: a binder having cover members and a spine; a plurality of loose leaf pages, wherein the pages have a

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display section, a front side, back side, a common divider; a table of contents; and a plurality of post members.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 17 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Liener Chin et al in view of Brosmith et al (5,692,607), and further in view of Hempleman et al.

Liener Chin et al discloses in Fig. 21-23, a display apparatus comprising: a binder (830) having an elongated spine member (830A) supporting along a longitudinal margin; hinge sections (830D) to connect the cover members (830B and 830C) to the spine (830A); a plurality of looseleaf pages (820) positioned between the covers and suspended from the spine, wherein each page includes a display section (910A in Fig. 23) having a front side and back side and bordering

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a perforated hinge section (820A in Fig. 21), and further having storage sleeves forming pockets (910 in Fig. 23) with an opening (A) along one side (A1), a viewing window (910A) for viewing a display item or sheet; wherein the pocket has indicia (written in 920); and wherein a display item is placed in the pocket; and a plurality of post members (830E); and wherein one of the pages displays a table contents (750 in Fig. 21); and whereby a user may refer to the table of contents listing to locate a selected display item, and flip the pages to the pocket having matching indicia to view the inserted display related material (Col. 11, lines 1-52).

However, Liener Chin et al does not disclose: a common divider formed of non-woven material; pocket indicia correlating the respective pockets to the respective positional identifiers; a table of contents generated from a subset of a database listing;

Brosmith et al discloses in Fig. 1-4, a looseleaf pages comprising a display section (12, 14, 16), wherein the display section has a pocket with a non-woven backing (14), a common divider (Fig. 1, which consist of backing (14)), and an opposing transparent window (12 and 16)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Liener Chin et al's display apparatus to include looseleaf pages with a display section having a pocket a backing and a common divider as taught by Brosmith et al for holding discs in a binder.

However, Liener Chin et al does not disclose a table of contents generated and inserted into the pockets correlating the compact disc titles with individual pocket indicia.

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Hempleman et al discloses in Fig. 1 wherein a database printout sheet can be generated (Col. 3, lines 37-40).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Liener Chin et al's and Brosmith et al's method of organizing with a generated display sheet of the database listing as taught by Hempleman et al for the purpose displaying the database on a hardcopy substrate.

In regards to **Claim 17**, mere claiming storage of facts or data which are to be read or outputted by a computer (table of contents generated from a subset of the database listing) without creating any functional interrelationship as part of the computing process performed by the computer does not impart patentability. Therefore, it would be obvious to obtain a display item (table of contents) from any type of database listing, since the data items from the database are just a mere arrangement of data or facts.

Allowable Subject Matter

5. Claims 2-15, 35 and 36 are allowed.

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Response to Arguments

6. Applicant's arguments filed on February 22, 2005 have been fully considered but they are not persuasive.

7. In regards to Claim 17, the examiner had rejected apparatus claim 17 as being unpatentable over Liener Chin et al as modified by Brosmith et al and Hempleman et al. Applicant has not submitted an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions, and explaining how the claims avoid the references or distinguish from them.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

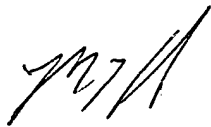
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571)272-4477. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington, can be reached on (571) 272-4483. The fax number for TC 3700 is (703)-872-9302. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703)308-1148.



MTH

May 11, 2005



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